

NPDES PHASE II COMMENTS

City of Everett

Comments on the proposed Phase II Western Washington NPDES permit

S1. Permit Coverage Area and Permittees. C.2.c

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Line 28

Delete: “~~commuter~~”

Add: “and any non-residents regularly employed in the areas served by the small MS4.”

S1. Permit Coverage Area and Permittees. D.2.d.

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Line 9

This line refers to section S2.D.c. No such section exists in the permit. Recommend changing this reference to S1.D.2.c.

S2. Authorized Discharges. A.

Page 9 of 50

Line 27

Delete: all “~~waters of the State~~” references and replace with “waters of the State that are also waters of the U.S.”

The language of this section needs to clearly state that the water bodies that are not waters of the U.S. are not regulated under this permit and are only regulated under State law as water of the State. Not all waters of the State are waters of the U.S. and are not and should not be included as a part of the NPDES permit.

S2 Authorized Discharges A.1.

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Line 30

Delete: “~~into and~~”

An owner of an MS4s cannot control all properties outside of its ownership.

S2 Authorized Discharges A.2.

Page 9 of 50

Line 32 to 35

Delete: section 2.

Discharges do not require permits other than required discharge permits. New construction of stormwater systems are permitted though construction permits not though a national pollutant discharge elimination permit. This should not be in the NPDES permit.

S2 Authorized Discharges A.4.

Page 10 of 50

Line 1 to 3

Delete: (all of section 4.) Ground waters that are waters of the State but are not waters of U.S. should not be part of NPDES regulations. They are regulated in State regulations and should not be included in the NPDES permit.

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S2 Authorized Discharges B.

Page 10 of 50

Lines 4 thru 11

This section appears to make the Permittee responsible for determining and ensuring that construction and industrial sites obtain and comply with a permit that is issued and administered by DOE.

Delete: all “~~waters of the State~~” references and replace with “waters of the State that are also waters of the U.S.”

The language of this section needs to clearly state that the water bodies that are not waters of the U.S. are not regulated under this NPDES permit and are regulated under State law as water of the State. Not all waters of the State are waters of the U.S. and are not and should not be included as a part of the NPDES permit.

S2. Authorized Discharges. C.

Page 10 of 50

Line 12

Delete: “~~emergency~~”

The CFR does not use the word “emergency” with respect to “fire fighting activities”. Who would define whether or not a particular situation was an emergency, and justified fire fighting action? If the intent of this language is to regulate training exercises, that should be clearly stated, rather than using the word “emergency”.

S2. Authorized Discharges. C.

Page 10 of 50

Line 14

ADD: (Unless the discharges from fire fighting activities are identified as significant sources of pollutants to waters of the State that are also waters of the U.S.)

Firefighting activities are essential public safety and human health activities that cannot cease if runoff is causing water quality issues. Is it the intent of the NPDES permit requirements to let fires burn, including forest fires?

S2. Authorized Discharges. D.

Page 10 of 50

Line 16

Delete: (“~~entities~~”)

Add (“responsible parties”)

State regulations defined who is responsible for spills and clean up in 173-303 WAC, 173-340 WAC.

S4. Compliance with Standards. A.

Page 11 of 50

Line 5 to 7

NPDES PHASE II COMMENTS

Delete: all of (A)

This is a Federal MS4 NPDES permit, RCW 90.48.520 regulates waste water treatment plants by individual permits not through this MS4 permit. Please remove all of S4 (A) - waste water treatment plants are not part of this permit. In addition, the word “toxicant” is not defined.

S4 Compliance with Standards B.

Page 11 of 50

Line 8 to 12

Delete: All of (B)

This is a Federal MS4 NPDES permit that regulates waters of the U.S.; WAC 173 regulates waters of the State including those that are not waters of the U.S. Please remove all of S (B) that regulates waters that are not waters of the U.S.

S4. Compliance with Standards, C., D., and E

Page 11 of 50

Lines 13 thru 21

These sections are very confusing. It is very important that the permit clearly state that compliance with the terms of the permit constitutes compliance with MEP and AKART (although we don't believe that AKART should be in a federal permit). Within the rest of the permit, the terms should NOT be used again, or there exists a circular path with no resolution... For example, S5.A, page 11, lines 34-36 state that the “SWMP shall be designed to reduce the discharge of pollutants from the regulated MS4 to the maximum extent practicable...”. As a result, MEP remains undefined.

CFR 40, section 122.34(a) clearly states the following: “Implementation of best management practices consistent with the provisions of the storm water management program required pursuant to this section and the provisions of the permit required pursuant to CFR 122.33 constitutes compliance with the standard of reducing pollutants to the “maximum extent practicable”.”

S4 Compliance with Standards D.

Page 11 of 50

Line 15 to 17

Delete all of (D)

All of “D” relates to state regulation not to the Federal MS4 NPDES permit.

S4 Compliance with Standards E

Page 11 of 50

Line 18 to 21

Delete : All of (E)

This statement is mixing Federal MS4 NPDES permit requirements that regulates waters of the U.S. and WAC 173 that regulates waters of the State. Please remove all of S4 (E) that regulates waters that are not waters of the U.S.

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S4. Compliance with Standards. F.

Page 11 of 50

Line 27 to 28

Delete: All of (S4, F., 2.)

~~(2. Comply with the state AKART requirements, or)~~

~~(3. Control the discharge of toxicants to waters of the State of Washington.)~~

S4. Compliance with Standards. F.3.

Page 11 of 50

Line 28

Delete: “~~State of Washington~~”

Add: “waters of the State that are also waters of the U.S.”

S5. Stormwater Management Program for Cities, Towns, and Counties. S5.A.

Page 11 of 50

Line 32 and 33

Delete: “...components listed in ~~S5.B and S5.C.1~~ through S5.C.6...”

S5.B is not a component of the SWMP.

S5. Stormwater Management Program for Cities, Towns, and Counties. S5.A.3

Page 12 of 50

Line 14 to 20

Delete: All of (a) and all other references to “tracking the cost of the development and implementation”.

What is the gain by tracking the cost of the development and implementation? It takes time and money to do this tracking that could be used for other work. We fail to see the benefit of reporting how much money we spend towards the implementation of this permit program. This will not offer any real evaluation of program success or meeting MEP. Every Permittee will spend varying amounts towards implementing the same program. Permittee 1 may spend less than permittee 2 toward implementation of identical programs. The amount of funding spent towards program implementation does not indicate permit compliance in any way. Furthermore, this effort would potentially change the structure of a local government’s financial recording system. This reporting requirement will require the alteration of a permittee financial system that may have been in use for several years and can not be changed without high costs to change outcomes just to meet this requirement. In addition, the amount of funds expended during one particular permit term should not be used as a standard to meet future permit renewals. This requirement should be completely removed from the permit.

S5. Stormwater Management Program for Cities, Towns and Counties. B.

Page 12 of 50

Line 27

Delete: “~~The SWMP shall be designed to reduce the discharge of pollutants from regulated small MS4s to the maximum extent practicable (MEP), meet state AKART requirements, and protect water quality.~~”

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Again, this should be said once, clearly, in Section S.4. DOE is defining MEP and AKART by giving specific SWMP components and minimum performance measures...

S5. Stormwater Management Program for Cities, Towns and Counties. C.1. Public Education and Outreach

Pages 12 thru 14

General Comment: This component of the SWMP in this draft permit goes too far beyond what is required in CFR 40. CFR 40 requires "Public education and outreach on storm water impacts" (122.34.b.1) and states the following (122.34.b.1.i) "You must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies and the steps the public can take to reduce pollutants in storm water runoff". The actions specified in CFR 40 are doable and measurable, those in the DOE permit are not.

S5. Stormwater Management Program for Cities, Towns and Counties. C.1.

Page 12 of 50

Line 41

Delete: "~~Reduce or eliminate~~"

Add: "influence"

Permittee can not evaluate changes and adoption of the targeted behaviors of others. It is extremely difficult to quantify a public educational program. It would be impossible to quantify the changing and adoption of targeted behaviors. Most communities in this area tend to have residential change approximately every few years. This is added difficulty to evaluating a success of an educational program tied to individual change. It takes years of exposure to educational programs to have an impact on societal change and this is beyond the scope of our permit requirements.

S5. Stormwater Management Program for Cities, Towns and Counties. C.1.a.

Page 13 of 50

Line 3

Add: The minimum performance measures are:

S5. Stormwater Management Program for Cities, Towns and Counties. C.1.a

Page 13

Lines 7 thru 11

Delete: The outreach program shall be designed to achieve measurable improvements in each target audience's understanding of the problem and what they can do to solve it ~~and measurable improvements in the percentage of each target audience regularly carrying out the intended action or behavior change. The education and outreach program shall increase regular adoption of the behaviors in the chosen target audiences by four years after the effective date of this Permit~~".

It is possible to test the knowledge of target audiences. We can also *ask* them if they are doing a particular action. But to measure the actual *percentage* (how do you even measure the total number of individuals in an audience, never mind a fraction of the total

NPDES PHASE II COMMENTS

number?) of each audience *actually* carrying out the action (do we set up surveillance cameras?) is impossible and goes way beyond the outcomes specified in i.-viii. And with respect to increasing the regular adoption of behaviors - permittees simply do not have that kind of control over the citizens living and working in their communities.

S5. Stormwater Management Program for Cities, Towns and Counties. C.1.a.i.-viii.
Pages 13 and 14

Clarification required: These items are designated as “audiences” in C.1.a. , However, the nouns of items C.1.a.i. – viii. are not audiences, they are outcomes (primarily “Awareness by” a group of individuals). Embedded within each item are multiple “audiences”. The Permittee is to target two “audiences”, and it is very unclear what is intended. In addition, exactly what we want the audience to do or to know should be very clearly specified (so that there’s a chance of measuring it at a later date).

S5. Stormwater Management Program for Cities, Towns and Counties. C.1.b.
Page 14

Lines 15 thru 17

Delete: “Each Permittee shall implement or participate in an effort to measure understanding and adoption of the targeted behaviors among the target audiences”

Question: How?? Unless there is a way to actually do what is required, the requirement should not be in the permit.

S5. Stormwater Management Program for Cities, Towns and Counties. C.1.b.
Page 14

Line 17

Clarification needed: “The resulting measurements shall be used to direct education...”
Shall be used by whom?

S5. Stormwater Management Program for Cities, Towns and Counties. C.2 Public Involvement and Participation.

Page 14

Line 25

Delete/Add: “...programs, environmental activities ~~and~~ or other similar activities.”

The use of “and” in this sentence, instead of “or”, indicates that all the previously listed activities must be included in the Permittee’s program.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.
Page 15 of 50

Line 3

Delete: “~~including spills~~” throughout permit.

There needs to be additional clarification regarding the spill program that is required in this section and how it relates to State clean up regulations which are not part of an NPDES permit. Historically, spills and releases to the environment are issues that

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Ecology has been mandated to address. This program could have very high costs. Staff would have to be specially trained to meet L&I requirements. Costs for this program could vary significantly year to year. If the cleanup and disposal costs were solely the responsibility of the local jurisdiction, instead of the responsible party or, without help from Ecology, one midnight dump of a hazardous waste could wipe out a municipalities maintenance budget.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.

Page 15 of 50

Line 2

Delete/Add: “The SWMP shall include ~~an on-going program to detect, remove, and prevent illicit connections, discharges, and improper disposals, including spills, the development, implementation and enforcement of a program to detect and eliminate illicit discharges~~ (as defined at CFR 122.26.(b)(2)) into the municipal separate storm sewers owned or operated by the Permittee.” (added lanugage is from CFR 40, Part 122.34(b)(3) Illicit discharge detection and elimination).

The federal language from CFR 40, Part 122.34(b)(3) should be used in this section. The proposed state language introduces too many uncertainties and potential legal challenges. In particular, the word “prevent” is problematic and implies that the Permittee can literally stop, or block, an illicit discharge from happening. This would mean that were an accidental spill to occur, regardless of ordinances and enforcement activities in place, the Permittee would be in violation of the Permit for allowing the accident to occur. By definition, an accident is an unforeseen or unplanned event. They will happen, regardless of the efforts of the Permittee.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.a.i.

Page 15 of 50

Lines 11 to19

Add: “an integrated GIS mapping tool with the above referenced attributes contained within layers is considered sufficient.”

It is unclear if the maps referred to in S5.C.3.a.i. needs to be a stand alone map or if layers within an agency existing integrated geographic information system (GIS) are sufficient. Changing the way agencies map systems would be costly and may cause the loss of past history of the system.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.a.ii.

Page 15 of 50

Line 21 and 22

Add/clarification needed: “Each Permittee shall initiate a program to develop and maintain a map of all known connections to the municipal separate storm sewer authorized or allowed by the Permittee after the effective date of this Permit.”

We can’t map a connection unless we know about it.

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All connections?? Including those connections that wouldn't be an illicit connection, such as roof drains? What is the definition of a "connection"? When is a connection "allowed by" but not "authorized by" the Permittee?

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.a.iv

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Line 27

Typo: should read "S5.C.3.a.i – iii ~~iv~~"

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.a.vi.

Page 15 of 50

Line 31 to 32

Add: "at cost which recompenses the permittees of providing the data that can include costs of maintenance and upkeep of the mapping system."

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.b

Page 15 of 50

Lines 34 and 35

Add/delete: "...to effectively prohibit ~~non-stormwater, illegal~~ illicit discharges, ~~and/or dumping~~ into the Permittee's..." .

Explanation: The definition of "illicit discharge" encompasses the other terms without bringing into the permit additional, undefined terms.

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

Line 18

Add: Planned discharges (of all significant volumes of potable water sources) shall...

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

All bulleted items (lines 16 through 37)

All of these bulleted items are listed in CFR 122.34.b.3.iii in the minimum requirement for Illicit Discharge Detection and Elimination. The CFR states that these categories of non-stormwater flows need only be addressed by the Permittee if they are identified as significant contributors of pollutants to the Permittee's small MS4. Who determined that the items in the draft permit were significant contributors of pollutants to Everett's MS4, and how? Policing these bullets, particularly with respect to discharges from potable water sources and lawn watering, could be very problematic for a municipality. These prohibitions could be interpreted very broadly, and cause permittees to expend valuable resources in responding to insignificant complaints.

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

Line 31

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Add: "... building wash down water that does not use detergents. (Building wash down water that does use detergents may not be discharged to the MS4.)"

Explanation: The way this item is written makes it sound like there are limitations on the discharge of building wash down water that doesn't use detergents, but isn't if detergents are used...

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

Line 16

Delete: at a minimum, "Discharge from ~~potable water sources, including~~ water line flushing, hyperchlorinated...". The use of "potable water sources" is too broad and would cover insignificant sources of potable water – including irrigation or lawn watering water.

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

Lines 19 and 20

Clarification needed: The criteria to determine whether or not pH adjustment is necessary needs to be given.

Also, this bullet indicates that "discharges must be volumetrically and velocity controlled to prevent resuspension of sediments." What type of sediments? Where in the system? These questions also apply to line 28 (swimming pool discharges).

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

Line 22- 24

Delete: all of second bullet.(lines 22, 23, and 24 on page 16 of 50.

Permittees should not be required to prohibit discharges from lawn watering and other irrigation runoff unless these sources are identified as significant sources of pollutants to their MS4. It is problematic to require a Permittee to enforce a regulation that prohibits lawn watering and/or irrigation discharges. This requirement puts the permittee at risk of legal action from third parties claiming that the Permittee is not enforcing their ordinance or permit. The "conditions" stated for allowing discharges from lawn watering (public education activities and water conservation efforts) are not clearly enough defined to allow the Permittee to *not* prohibit discharges from lawn watering and other landscape irrigation runoff, which makes every lawn watering complaint a report of an illicit discharge. Investigating these complaints, or even fielding them, would be a waste of scarce resources. In addition, water conservation programs should not be subject to a NPDES permit.

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

Line 25

Delete: "~~Dechlorinated~~Swimming pool discharges.

NPDES PHASE II COMMENTS

S5. Stormwater Management Program for Cities, Towns and Counties. B.3.b.ii.

Page 16 of 50

Line 31

Add: "... building wash down water that does not use detergents. (Building wash down water that does use detergents may not be discharged to the MS4.)"

Explanation: The way this item is written makes it sound like there are limitations on the discharge of building wash down water that doesn't use detergents, but isn't if detergents are used...

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.b.iii.

Page 16 of 50

Line 38 to 39

Delete: (~~All of iii.~~)

The permittee can attempt to reduce or minimize the non-stormwater discharges described in this section through mechanisms put in place, education or inspections of the MS4 system but has limited control over areas they have no ownership/ control or over naturally occurring conditions. Requiring the Stormwater Management Plan to effectively prohibit these discharges are not realistic.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.c.ii.

Page 17 of 50

Line 28

Add: "Screening for illicit connections shall be conducted using (the appropriate portions of)

Guidance Manuals are not regulatory instruments. By including it as a requirement, this permit condition makes it a regulation without due process.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.c.iii.

Page 17 of 50

Lines 33 thru 35

Add/delete: Procedures for determining the ~~characterizing the nature of, and~~ potential public or environmental threat posed by, and characterization of the nature of any illicit discharges posing a public or environmental threat, any illicit discharges found by or reported to the Permittee."

Comment: "Characterization" isn't defined and should be. However, this term implies chemical testing and should not be required if its determined that no public or environmental threat is posed by the discharge.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.c.v.

Page 18 of 50

Lines 12 thru 19

Comment: It doesn't seem appropriate to switch to "illicit connection" in this bullet. The discussion has been regarding illicit "discharges". An illicit connection is a specific type of illicit discharge, but compliance with this bullet just for illicit connections does not fully address item C.3.c.v.

NPDES PHASE II COMMENTS

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.f.

Page 18 of 50

Line 35

Clarification needed: "Each Permittee will provide appropriate training for municipal field staff...". What is appropriate training? Who defines what is appropriate?

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.f.i.

Page 18 of 50

Comment: Municipal field staff should not be responsible for cleaning up spills or improper disposal of potentially hazardous wastes. These types of duties are highly specialized, dangerous, and require the use of specialized and expensive equipment. They occur too infrequently to be handled efficiently at the local level. These activities should not be the responsibility of municipalities.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.c.v

Page 18 of 50

Lines 18

Delete (180 days)

Add: ("termination of the connection must be initiated within 180 days using enforcement authority as needed.")

Requires "termination of the connection within 180 days..." Termination of connections or practices may require court action. Jurisdictions cannot guarantee legal timelines decided within the court system.

S5. Stormwater Management Program for Cities, Towns and Counties. C.3.f.

Page 18 of 50

Line 35

Clarification needed: "Each Permittee will provide appropriate training for municipal field staff...". What is appropriate training? Who defines what is appropriate?

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.

Page 19 of 50

Line 21 to 23

Delete: ~~The "Technical Thresholds" in Appendix 1 shall be applied to all sites 1 acre or greater, including projects less than one acre that are part of a larger common plan of the of the development or sale.~~

This Appendix 1 is a guidance document.

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.i.

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NPDES PHASE II COMMENTS

Line 30 to 38

Delete: section (i-) Appendix 1 is guidance. Making a guidance document required as an ordinance or NPDES permit would be without due process.

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.i.

Page 19 of 50

Line 34 to 38

Delete: “~~more stringent requirements may be used and/ or~~ certain requirements may be tailored to local circumstances. Through the use of basin plans or other similar water quality and quantity planning efforts such local requirements must provide equal protection of receiving waters and equal levels of pollution control as compared to Appendix 1.”

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.ii.

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Lines 41- 43

Comment: The terms MEP and AKART should not be present in the description of what’s necessary to do to meet MEP and AKART.

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.ii.

Page 20 of 50

Line 7

Add: permittees who choose to use (“the required portion of the”) site planning. . .

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.ii.

Page 20 of 50

Line 32

Add: below, (permittee), review of.....

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.ii.

Page 20 of 50

Line 34

Add: below, (inspection by permittee), prior....

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.ii.

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Line 39

Add: below, (permittee) inspect...

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.ii.

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Line 1

Add: (Permittee would) inspect

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S5. Stormwater Management Program for Cities, Towns and Counties. C.4.a.ii.

Page 21 of 50

Line 4

Add: "Also, ensure a maintenance plan is completed (by owner of the system) and" ...

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.

Page 21 of 50

Line 19

Add: ...(b) above for sites that disturb a land area 1 acre or greater, including projects less than one acre that are part of a larger common plan of development or sale."

Explanation: The permittee may choose to use the same permitting process given in C.4.b for sites smaller than one acre, but should not have to treat those smaller sites in the same way that larger sites are required to be treated in C.4.c.

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.

Page 21 of 50

Starting at line 18

The number of inspections that will result from the inspection requirements in this section would be, again, a drain on scarce resources. We believe this entire section should focus the responsibility for inspecting and maintaining private facilities on the private facility owner. We propose that items i. and ii. remain the permittee's responsibility. However, we believe that the inspections called for in items iii. and iv. should be the responsibility of the owner of the facility. We propose that the owners of the facilities be required to submit an annual report of inspection and maintenance taken to the Permittee, with the Permittee conducting random "spot checks" of a given percentage of them to verify the report.

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.ii.

Page 21 of 50

Line 27 to 29

Delete: All of C.4.c.ii.

The use of Chapter 4 volume V. is only a guideline.

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.ii.

Page 21 of 50

Line 28

Add: "more protective than those specified in ("the mandatory parts of") Chapter 4 . . ."

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.iii.

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NPDES PHASE II COMMENTS

Lines 1 to 9 and Page 23 Lines 35 to 39

Add: “water quality treatment facilities (not) including catch basins”

Section S5.4.ciii requires “water quality treatment facilities including catch basins” to be inspected annually, (we recommend “inspected at least once before the end of the Permit term.”) while S5.5.d states that all catch basins must be inspected at least once before the end of the Permit term. Lines 1 to 9 on Page 22 and Lines 35 to 39 on Page 23 conflicts with out the change.

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.iii, iv, v
Page 22 of 50

Line 1

Add: Inspection program (“by owner of the property”)

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.iii, iv, v
Page 22 of 50

Line 10

Add: Inspection (“by owner of the property”) of all...

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.iii, iv, v
Page 22 of 50

Lines 15

Add: compliance with maintenance standards as needed (“by owner of the property”)

S5. Stormwater Management Program for Cities, Towns and Counties. C.4.c.iii, iv, v
Page 22 of 50

Lines 19

Add: of the site (“by owner of the property”)

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.
Page 23 of 50

Line 1

Delete: goal of (~~preventing or~~) reducing...

Preventing is an absolute which can not be maintained.

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.
Page 23 of 50

Line 2

Add: municipal operations (for property owned by permittee).

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.a.
Page 23 of 50

Line 4 to 6

NPDES PHASE II COMMENTS

Delete: All of (~~C.5.a.~~) or *Add:* as those specified in (“the mandatory parts of”)
The use of this chapter is only guidance.

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.a.
Page 23 of 50

Line 15

Add: “these standards are violated (by the owner of the property)”

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.a.
Page 23 of 50

Line 17

Add: (“unless delayed by processes beyond the applicants control”)

This line states that a jurisdiction must complete a maintenance action within 2 years when the capital construction cost is less than \$25,000.00. This time limit may not be achievable in the cases that require additional regulatory permits. Stormwater system construction often requires shoreline substantial development permits, Army Corps section 404 permits, WDFW Hydraulic Project Approvals, and Ecology section 401 permits and could require an section 7 or 10 review. All these permits have long time lines and are all subject to appeal. As such many projects take longer than 2 years to get through the regulatory permit process.

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.c.
Page 23 of 50

Line 20

Add: flow control facilities (not including catch basins)...

Lines 1 to 9 on Page 22 and Lines 35 to 39 on Page 23 conflicts.

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.c.
Page 23 of 50

Line 28

Add: (“Property owner shall conduct”) spot checks . . .

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.c.
Page 23 of 50

Line 29 and 30

The definition of major storm event (greater than 24-hour-10-year recurrence interval rainfall) could be problematic for Permittees. As determined by whom? Where? There are difference data sources from which rainfall statistics have been drawn, and which yield different volumes for rain for different recurrence interval/duration storms. Rainfall often varies across a Permittee’s service area.

Page 23

Line 42

NPDES PHASE II COMMENTS

What is the definition of a “site”?

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.c.

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Line 33

Delete: action (~~in accordance with maintenance standards established above,~~) based...

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.c.

Page 23 of 50

Line 28

Add: Spot checks of potentially damaged, municipally owned or operated permanent stormwater...

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.d.

Page 23 of 50

Line 39

Add: in accordance with (“the mandatory parts of”) Appendix...

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.d.

Page 23 of 50

Lines 35–39

This item should only include the requirement for inspection. “Inspection of all catch basins and inlets owned or operated by the Permittee at least once before the end of the Permit term.” Cleaning of catchbasins are addressed in C.5.a. Disposal of wastes should be addressed in a different item.

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.e.

Page 23 of 50

Line 42

Add: 95% of all sites (“owned by the property owner.”)

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.g.iii & iv

Page 24 of 50

Line 26 to 27

Vegetation and waste disposal of solids are regulated by other regulations like WAC 350 Solid Waste Regulations not by this permit, please delete all references to waste disposal.

S5. Stormwater Management Program for Cities, Towns and Counties. C.5.i.

Page 25 of 50

Line 5

Add: General Permit (“or other appropriate NPDES Permit.”)

S6. Stormwater Management Program for Secondary Permittees B.

Page 25 of 50

Line 37

NPDES PHASE II COMMENTS

Delete: discharges (“~~to and~~”)...

S6. Stormwater Management Program for Secondary Permittees B.1.

Page 26 of 50

Line 1 to 4

Delete: lines 1 – 4.

These are industrial permits controlled by Ecology.

S6. Stormwater Management Program for Secondary Permittees B.2.

Page 26 of 50

Line 5 to 6

Delete: all of lines 5 – 6.

Permittee can not control other agency’s property or private property with in other agencies.

S6. Stormwater Management Program for Secondary Permittees. B.3.

Page 26 of 50

Line 7 to 9

Delete: All of line 7, 8, and 9

Permittee can not control private property.

S6. Stormwater Management Program for Secondary Permittees. B.4.

Page 26 of 50

Line 10 to 11

Delete: All of line 10 and 11

Permittee can not control other agency’s property or private property.

S6. Stormwater Management Program for Secondary Permittees B.6.

Page 26 of 50

Line 13

Add: and monitoring (“of property owned by MS4, and”) procedures....

S6. Stormwater Management Program for Secondary Permittees B.6.

Page 26 of 50

Line 15

Delete: on illicit (“~~discharges~~”)

Add: on illicit (“connections”)

S6. Stormwater Management Program for Secondary Permittees C.2.b.

Page 28 of 50

Line 20

Add: planned discharges (of all potable water sources.) shall...

S6. Stormwater Management Program for Secondary Permittees C.2.b.

Page 28 of 50

NPDES PHASE II COMMENTS

Line 22

Add: velocity controlled (by BMPs installed to) ~~(prevent)~~ control resuspension...

S6. Stormwater Management Program for Secondary Permittees. C.3.b.v.

Page 29 of 50

Line 3-4

Delete: ~~(All of iv.)~~

The permittee can attempt to reduce or minimize the non-stormwater discharges described in this section through mechanisms put in place, education or inspections of the MS4 system but has limited control over areas they have no ownership/ control or over naturally occurring conditions. Requiring the Stormwater Management Plan to identify significant sources of pollutants and effectively prohibit these discharges are not realistic.

S6. Stormwater Management Program for Secondary Permittees. C.3.b.v.

Page 29 of 50

Line 7

Delete: waters of the ~~(State)~~

Add: (waters of the State that are waters of the U.S.)

S6. Stormwater Management Program for Secondary Permittees. C.3.d.

Page 29 of 50

Line 21

Delete: any illicit ~~(discharges.)~~

Add: any illicit (connections)

S6. Stormwater Management Program for Secondary Permittees. C.3.e.

Page 29 of 50

Line 23 to 25

Delete: all of e.

Add “Report all spills to Ecology.”)

This is not the Local Agency role.

S6. Stormwater Management Program for Secondary Permittees. C.3.f.

Page 29 of 50

Line 27

Delete: ~~“preventing”~~

Add: (reducing)

S6. Stormwater Management Program for Secondary Permittees. C.5.a.

Page 30 of 50

Line 5-7

Add: (including implementation of “only the mandatory parts of”) the Minimum Technical Requirements for Construction Stormwater Pollution Prevention containment in Appendix 1, Minimum Requirement #2)

NPDES PHASE II COMMENTS

S6. Stormwater Management Program for Secondary Permittees. C.5.b.

Page 30 of 50

Line 28

Add: (including implementation of the (“only the mandatory parts of”) minimum Technical Requirements in Appendix 1)

This is recommended guidance, not regulatory requirement

S6. Stormwater Management Program for Secondary Permittees. C.5.c.

Page 30 of 50

Line 31

Add: (“only the mandatory parts of”) minimum Technical Requirements in Appendix 1)...

This is recommended guidance, not regulatory requirement

S6. Stormwater Management Program for Secondary Permittees. C.6.a.i.

Page 31 of 50

Line 13

Add: BMPs (owned by Secondary Permittees) to ...

S6. Stormwater Management Program for Secondary Permittees. C.6.a.i.

Page 31 of 50

Line 15

Add: specified in (“only the mandatory parts of”) Chapter 4...

This is recommended guidance, not regulatory requirement.

S6. Stormwater Management Program for Secondary Permittees. C.6.a.ii.

Page 31 of 50

Lines 22

Add: e.g. salt, sand (mixed with de-icer additives), or other...

Section S6.a.ii is not sufficiently clear. Does Ecology intend to require that secondary permittees store road sand (traction grit) in a “walled and roof structure”? We recommend that sand used for traction control that does not have any de-icer additives not be required to be contained within a roofed and walled structure.

S6. Stormwater Management Program for Secondary Permittees. C.6.a.v.

Page 31 of 50

Line 37 to 38

Delete: (~~and vegetation disposal and trash management.~~)

Solid waste disposal and trash management is regulated by other regulations like WAC 173-350 not the NPDES permit. Please remove waste disposal from the permit.

S8. Monitoring

Page 33 - 36 of 50

Special Condition 8:

NPDES PHASE II COMMENTS

It is not appropriate to require monitoring for BMP effectiveness mainly because these are already proven BMP's. A lot of research has gone into developing and monitoring these BMP's prior to including them into the Western Washington Storm Water Manual guidance.

S8. Monitoring. A.2. – B.3.

Page 33 of 50

Lines 16 to 28

Recommend that Ecology make it clear the screening tests used in Illicit Discharge program pursuant to section S5.B.3.c.iii is not stormwater monitoring that requires a separate reporting under section S8.B.1.

S8. Monitoring. C.1.b.

Page 34 of 50

Line 38 to 39

Delete: for (~~either~~) stormwater (~~or receiving water~~) monitoring

Monitoring receiving waters is outside of local stat and local jurisdiction. BMP effectiveness monitoring as it relates to receiving waters is outside of local control.

To answer this question a trendline of each parameter will need to be developed.

However, cause and effect has not been established. Only land use versus biodiversity or bio-integrity has been established. Artificial streams maybe better suited to answer the question for selected parameters

S8. Monitoring. C.1.c.i. & ii

Page 35 of 50

Lines 14 to 42

and Page 36 of 50

Lines 1 to 15

Delete all of (~~e~~) Page 35 of 50, Lines 14 to 42 and Page 36 of 50, Lines 1 to 15

If the intent of the BMP effectiveness monitoring is to determine appropriate use conditions for a BMP and the appropriate design criteria, then the plan listed is unlikely to answer those questions. For jurisdictions that have current structures built with standards prior to the 2005 Stormwater Management Manual for Western Washington guidance, would generate information that will not reflect the goal of BMP effectiveness monitoring of current standards. We recommend that Ecology coordinate BMP testing using sites known to be built using the criteria standards listed within the 2005 Stormwater Management Manual for Western Washington guidance to measure their appropriateness and determine the proper design criteria.

S9. Reporting Requirements

Page 36 of 50

Line 17 to 38

and Page 37 of 50

Line 1 to 32

Special Condition 9:

NPDES PHASE II COMMENTS

We fail to see the benefit of reporting how much money we spend towards the implementation of this permit program. This will not offer any real evaluation of program success or meeting MEP. Every Permittee will spend varying amounts towards implementing the same program because each system is different, with different elements. Ecology will not be able to judge MEP by how much money is spent compared between jurisdictions. In other words permittee 1 may spend less than permittee 2 toward implementation of identical programs. The amount of funding spent towards program implementation does not indicate permit compliance in any way. This effort could potentially change the structure of a local government's financial recording system. This reporting requirement will require the alteration of a permittee financial system that may have been in use for several years and can not be changed just to meet this requirement. In addition, the amount of funds expended during one particular permit term should not be used as a standard to meet in future permit renewals. This requirement should be completely removed from the permit.

S9. Reporting Requirements. C.2.b.

Page 37 of 50

Line 2

Delete: (~~"standards"~~) measures...

Add: ("measures")

Delete: minimum (~~"control"~~) measures

Add: (component)

S9. Reporting Requirements. C.2.e.

Page 37 of 50

Line 14

Delete: (~~"S5.A.3 and"~~)

S9. Reporting Requirements. D.1.

Page 37 of 50

Line 29 to 30

Delete: making (~~"photocopies of"~~) records

Records come in all types today.

S9. Reporting Requirements. D.1.

Page 37 of 50

Line 30

Delete: (~~"other"~~)

Add: ("including")

S9. Reporting Requirements. D.1.

Page 37 of 50

Line 31 to 32

Add: this permit (comply with State laws on public disclosure)

NPDES PHASE II COMMENTS

G4. Bypass Prohibited. B.

Page 38 of 50

Line 28

Delete: (“~~Severe property damage does not mean economic loss~~”)

G5. Right of Entry. B.

Page 38 of 50

Line 35

Add: of the (“in compliance with State disclosure laws.”)

G5. Right of Entry. D.

Page 39 of 50

Line 2

Add: facilities (owned by Permittee); and

G7. Property Rights

Page 39 of 50

Line 9

Add: of any sort (“or the right to enter private property”), or...

G9. Monitoring. B.

Page 39 of 50

Line 23

Delete: (~~five~~)

Add: (“three”)

To comply with State law and CFR

G9. Monitoring. B.

Page 39 of 50

Line 26

Add: Ecology (“in compliance with State disclosure laws.”)

G9. Monitoring. G.

Page 40 of 50

Line 21

Add: modification (“by following due process with State law for rule development.”)

G10. Removed Substances

Page 40 of 50

Line 28 to 29

Delete: “and only in accordance with the Street Waste Disposal Guidelines in Appendix (4.)”

Add: (5)

NPDES PHASE II COMMENTS

G14. General Permit Modification and Revocation. D.

Page 41 of 50

Line 29 to 30

Add: “is obtained (by the permittee) which”...

The definition of site-specific information must be changed to include that only the permittee or authorized agents of the permittee will supply site specific information that can change the conditions of the discharge.

Definitions and Acronyms

Page 46 of 50

Line 20

Delete: (“~~disposal of wastes~~”), stormwater, (~~or other wastes~~)

Solid waste disposal is regulated with other regulations like WAC 173-350 solid waste regulations.

Definitions and Acronyms

Page 48 of 50

Line 16 to 19

Delete: jurisdiction over (~~disposal~~) of sewage, industrial wastes”, stormwater, (“~~or other wastes~~”) including....

Add: (“treatment.”)

Clarify that this permit is addressing only stormwater related to these entities.

Sewer and industrial are “Separate permits” and solid waste disposal is regulated with other regulations like WAC 173-350 solid waste regulations.

Definitions and Acronyms

Page 49 of 50

Line 1

Add: “. . . means (only the mandatory parts of) the . . .”